

# **EXHIBIT A**

20-1001

## SUMMONS

Attorney(s) \_\_\_\_\_  
 Office Address 98 North Ashby Ave  
 Town, State, Zip Code Livingston, NJ 07039  
 Telephone Number (973) 994-9113  
 Attorney(s) for Plaintiff pro-se  
Lynne S Schwartz & Stephen Z Schwartz  
pro-se  
 Plaintiff(s)

**Superior Court of  
New Jersey**

Morris COUNTY  
Civil DIVISION

Docket No: MRS L 001874 20

Vs.  
ZimmerBiomet Holdings, Inc  
 Defendant(s)

**CIVIL ACTION  
SUMMONS**

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at [http://www.judiciary.state.nj.us/prose/10153\\_deptyclerklawref.pdf](http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf).) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at [http://www.judiciary.state.nj.us/prose/10153\\_deptyclerklawref.pdf](http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf).



Clerk of the Superior Court (PRO SE)

DATED: 10/1/2020

Name of Defendant to Be Served: ZimmerBiomet Holdings, Inc.

Address of Defendant to Be Served: 399 Jefferson Rd., Parsippany, NJ 07054

COPY

	<h2 style="margin: 0;">Civil Case Information Statement</h2> <h3 style="margin: 0;">(CIS)</h3> <p style="margin: 5px 0 0 0;">Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> <b>Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed</b></p>		<b>For Use by Clerk's Office Only</b> Payment type: <input type="checkbox"/> ck <input type="checkbox"/> cg <input type="checkbox"/> ca Chg/Ck Number: _____ Amount: _____ Overpayment: _____ Batch Number: _____	
	Attorney/Pro Se Name Lynne S & Stephen Z schwartz		Telephone Number (973) 994-9113	
	Firm Name (if applicable)		County of Venue Morris	
	Office Address 98 North Ashby Ave. Livingston, NJ 07039-2028		Docket Number (when available)	
			Document Type complaint	
		Jury Demand <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Name of Party (e.g., John Doe, Plaintiff) Lynne Susan Schwartz Plaintiff Stephen Z Schwartz Plaintiff		Caption Lynne S and Stephen Z Schwartz vs. Dr Paul Lombardi, Tri-County Orthopedics, Morristown Medical Center et al (Atlantic Health Systems.) and ZimmerBiomet Holdings and subsidiaries.		
Case Type Number (See reverse side for listing) 604	Are sexual abuse claims alleged? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is this a professional malpractice case? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If you have checked "Yes," see N.J.S.A. 2A:53A-27 and applicable case law regarding your obligation to file an affidavit of merit.		
Related Cases Pending? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If "Yes," list docket numbers		
Do you anticipate adding any parties (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Name of defendant's primary insurance company (if known) <input type="checkbox"/> None <input checked="" type="checkbox"/> Unknown		
<b>The Information Provided on This Form Cannot be Introduced into Evidence.</b>				
Case Characteristics for Purposes of Determining if Case is Appropriate for Mediation				
Do parties have a current, past or recurrent relationship? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If "Yes," is that relationship: <input type="checkbox"/> Employer/Employee <input type="checkbox"/> Friend/Neighbor <input type="checkbox"/> Other (explain) <input type="checkbox"/> Familial <input type="checkbox"/> Business		
Does the statute governing this case provide for payment of fees by the losing party? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition This case involves the deliberate or negligent disposal or loss of physical evidence removed from the plaintiff's hip during revisionary surgery occurring ten days after initial failed hip replacement surgery.				
SEP 14 2020 SUPERIOR COURT OF NEW JERSEY				
 Do you or your client need any disability accommodations? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If yes, please identify the requested accommodation:		
Will an interpreter be needed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If yes, for what language?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .				
Attorney Signature: <i>Lynne S. Schwartz</i> <i>Stephen Z Schwartz</i> pro se				

## Form A

Filed Date 4/21/20  
 Batch No. 921  
 Receipt No. 3795  
 Amount \$250.00

## Plaintiff or Filing Attorney Information:

Name Lynne Susan Schwartz & Stephen Z. Schwartz

NJ Attorney ID Number \_\_\_\_\_

Address 98 North Ashby AveLivingston, NJ 07039Telephone Number 973-994-9113

RECEIVED  
 SUPERIOR COURT  
 OF NEW JERSEY  
 SEP -9 2020

Lynne S. Schwartz & Stephen Z. Schwartz,  
 Plaintiff,

v.

Paul M. Lombardi M.D., et als

See attached LIST (A),  
 Defendant(s).

Superior Court of New Jersey  
CIVIL Division MORRIS County  
 Part

Docket No: \_\_\_\_\_  
 (to be filled in by the court)

Civil Action  
 Complaint

Plaintiff, Lynne S. Schwartz & Stephen Z. Schwartz, residing at  
 (your name)

98 North Ashby Ave, City of Livingston  
 (your address) (your city or town)

County of Essex.  
 (your county)

State Of New Jersey, complaining of defendant, states as follows:

1. On September 4, 2018, Paul M. Lombardi M.D., et als, Defendant  
 (name of person being sued)

(Summarize what happened that resulted in your claim against the defendant. Use additional pages if necessary.)

Dr. Lombardi performed an anterior right hip replacement. The following Thursday I (Lynne)  
experienced severe pain in my right leg. I went to his office on Friday Sept. 11, 2018 and was told that I  
needed to return to the hospital immediately because a cerclage wire and clamp that he had placed on  
my femur had opened resulting in my femur breaking, and that I would need corrective surgery  
immediately. Please see attached NOTE B for remainder of explanation.

The defendant in this action resides at c/o Tri-County Orthopedics 197 Ridgedale Ave Cedar Knolls,  
 (defendant's address)

In the County of Morris, State of New Jersey.  
 (name of county where defendant lives)

2. Plaintiff is entitled to relief from defendant under the above facts.

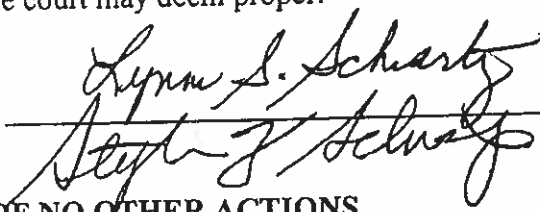
**Form A**

3. The harm that occurred as a result of defendant's acts include: (list each item of damage and injury)

1. Constant pain and frequent severe pain in my right leg resulting inability to walk with a normal gait. Can not put full weight on the right leg when climbing stairs and must lead with my left leg at all times. When I roll over onto my right side in bed I frequently experience pain severe enough to cry out in my sleep and wake me and my husband up.
2. The doctor and/or hospital's failure to provide me with the failed cerclage wire (as requested prior to the second surgery and stated in his surgical notes), constitutes intentional or negligent spoliation of evidence which denied us the ability to prove that the part was defective and limited ability to succeed in a claim against the manufacturer - ZimmerBiomet Holding, Inc.
3. Loss of consortium. Additional limitation due to combination of anterior and revisionary posterior surgery on right leg (of Lynne). Inability to pick up or get on floor and play grandchildren.

Wherefore, plaintiff requests judgment against defendant for damages, together with attorney's fees, if applicable, costs of suit, and any other relief as the court may deem proper.

Dated: 09/04/2020

Signature: 

**CERTIFICATION OF NO OTHER ACTIONS**

I certify that the dispute about which I am suing is not the subject of any other action pending in any other court or a pending arbitration proceeding to the best of my knowledge and belief. Also, to the best of my knowledge and belief no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this complaint, I know of no other parties that should be made a part of this lawsuit. In addition, I recognize my continuing obligation to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

**OPTIONAL:** If you would like to have a judge decide your case, do not include the following paragraph in your complaint. If you would prefer to have a jury to decide your case, please sign your name after the following paragraph.

**JURY DEMAND**

The plaintiff demands trial by a jury on all of the triable issues of this complaint, pursuant to New Jersey Court Rules 1:8-2(b) and 4:35-1(a).

Dated: 09/04/2020

Signature: 

FORM A      Lynne & Stephen Schwartz

LIST A

Defendants:

Dr. Paul M. Lombardi

C/O Tri-county Orthopedics

197 Ridgedale Ave. #300

Cedar Knolls, NJ    07927

Tri-county Orthopedics

197 Ridgedale Ave.

Cedar Knolls, NJ    07927

Morristown Medical Center et al (A division of AHS Hospital Corp.)

100 Madison Ave.

Morristown, NJ    07960

ZimmerBiomet Holdings Inc. and subs.

1800 West Center St.

Warsaw, IN          45681-0708

LOCAL ADDRESS:  
399 JEFFERSON RD  
PARLISHPANY NJ 07054



**FORM A**

**Note B**

**Lynne S. & Stephen Z. Schwartz vs. Paul M. Lombardi M.D et als**

Continuation of plaintiffs' complaint:

I (Lynne) was sent to Morristown Memorial Hospital immediately Friday Afternoon. The following Monday Evening at approximately 7:30 PM I underwent revisionary surgery, by the **posterior** method, to replace the entire hip again and repair the broken femur.

Due to the unusual circumstances, we requested that all the parts that were removed be returned to us. We were told that this would be done. A statement to this effect, by the doctor and/or his staff, both typed and hand-written, are present in the operative notes. We were given a form to sign authorizing pathology to retain the parts and give them to us when pathology returned them to the hospital (2 days later). It should be noted that when we picked up the parts we did not yet have access to the operative notes. We were not aware that all four parts installed in the initial surgery had been removed. We were only given three parts by pathology, which only included **one** cerclage wire. The parts were sealed in a container and we took them home.

Not until several months later, while reading the operative notes did I (Stephen) realize that one cerclage wire was missing. I had assumed that during the second surgery, the wire that didn't release/open was not removed and left in place. The notes stated the contrary – **both wires were removed**. That is when I opened the container and saw that the wire we had been given was the "good one" that had been cut off the bone. The failed wire that "popped open" was mysteriously nowhere to be found. In reading the print-out of the operative notes and other documents relating to the surgery it became obvious that only three of the four pieces were sent to pathology. The fourth part just disappeared in the operating room. At a subsequent visit to doctor Lombardi I asked him what happened to the part and was told he "didn't know".

Re-cooperation from the second surgery became problematic. The physical therapy staff at Tri-County Orthopedics had never had to deal with therapy for two different types of surgery within such a short time. In fact, some of the exercises required after anterior surgery were forbidden after posterior surgery and visa-versa. Even after out-patient PT was used the issue continued. This has slowed recovery and made it more painful. It appears **total** recovery from the surgeries is not at all likely.

Without the missing part we have no sure way to determine if the failure was due to a defect in Zimmer's product or an error in installing it. We do know that it had to be one or the other.

**Form A**

Name Lynne S & Stephen Z Schwartz  
NJ Attorney ID Number (if applicable) N/A  
Address 98 North Ashby Ave  
Livingston, NJ 07039  
Telephone Number 973-994-9113

Superior Court of New Jersey  
Law Division  
Morris County  
Docket Number MRS L 001874 20

Lynne S & Stephen Z Schwartz  
Plaintiff(s)  
v.  
Dr. Paul Lombardi, et als  
Defendant(s)

**Civil Action**  
**Notice of Motion**

To: Morris County Court House  
10 Court St.  
Morristown, NJ 07963

**TAKE NOTICE** that the undersigned will apply to the above named Court located at  
10 Court St Morristown, NJ 07963, on 10/16/2020, at 9:00 a.m. for an Order  
to (describe relief requested):  
Correct the dates stamped on the Civil Action Complaint (Form A) and the Civil Case Information Statement  
(CIS) from September 9, 2020 to the actual date filed with the Court, namely September 4, 2020

I will rely on the attached certification which contains the grounds for the relief sought.

Pursuant to R. 1:6-2(d), the undersigned: (check one)

- ☐ Waives oral argument and consents to disposition on the papers.  
☒ Requests oral argument if this matter is contested.  
☐ Requests oral argument for the following reasons:

A proposed form of Order is attached.

**Court Dates**

No pre-trial conference, arbitration proceeding, calendar call or trial date has been set except as follows: (If any  
dates have been scheduled, note them here; otherwise state "none")

None

**Discovery End Date**

- ☐ Discovery in this matter is scheduled to be completed on \_\_\_\_\_.  
☒ A discovery end date has not been assigned to this matter.



Form A

**Certification Regarding Attempts to Resolve**  
(Required for discovery and calendar motions – check one)

- ☐ I certify that I have personally discussed this matter with the attorney for the opposing party, or the opposing party if appearing *pro se*, in order to resolve the issues raised by this motion. This effort was not successful.
- ☐ I certify that I have made a good faith effort to personally discuss this matter with the attorney for the opposing party, or with the party if appearing *pro se*, in order to resolve the issues raised by this motion. The effort I made included the following action: (specify attempts to confer):  
N/A

- ☐ I certify that I have advised the attorney for the opposing party, or the party if appearing *pro se*, by letter that if I will make this motion if she/he continues to fail to comply with my discovery request.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Date 10/1/2020

Lynne S. Schwartz/Stephen Z. Schwartz  
Signature

Lynne S Schwartz/Stephen Z Schwartz  
Print Name

If this is the first paper you are filing in this case, you must sign the following certification.

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-77(b).

Date 10/1/2020

Lynne S. Schwartz/Stephen Z. Schwartz  
Signature

Lynne S Schwartz/Stephen Z Schwartz  
Print Name

Form B

Name Lynne S & Stephen Z Schwartz  
NJ Attorney ID Number (if applicable) N/A  
Address 98 North Ashby Ave  
Livingston, NJ 07039  
Telephone Number 973-994-9113

Superior Court of New Jersey  
Law Division  
Morris County  
Docket Number MRS L 001874 20

Lynne S & Stephen Z Schwartz  
Plaintiff(s)

v.

Dr. Paul Lombardi, et als  
Defendant(s)

Civil Action

**Certification in Support of Motion**

I, Lynne S & Stephen Z Schwartz, am the (check one) ☒ plaintiff ☐ defendant in the above-captioned matter. I make this certification in support of my motion to: (state what you want the court to do)

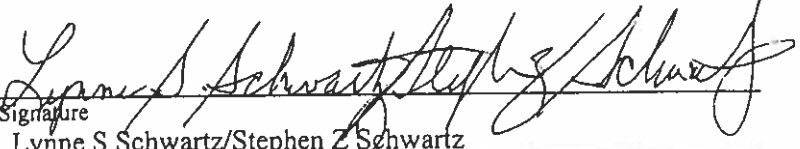
Change the received date as stamped on the forms CIS and the Form A from September 9, 2020 to September 4, 2020, the actual date the forms were inserted into the mail box in the lobby of the Court House.

This motion should be granted because: (State the basis for your motion and why it should be granted. Use extra paper if necessary.)

Due to Covid19, there was a 3 day (72 hour) delay in opening and stamping the mail as "received". Had the documents been delivered to the court after the fourth, the next possible day being the 8th - (due to the Labor day holiday), the papers would have been stamped as received on the 11th. In addition, when the filing was dropped in the courthouse mail box on the fourth, photographs were taken outside the building, with a time and date stamp of "September 4 1:09 PM" and, at the suggestion of the guards in the lobby, photos were taken at the mail box in the lobby, showing the documents being deposited "September 4 1:12 PM". Copies of the photos are enclosed. Originals are on our I-phone and are available to be viewed by the court if needed.

I certify that the above statements made by me are true and that if any of the statements are willfully false, I am subject to punishment.

Date 10/1/2020

  
Signature  
Lynne S Schwartz/Stephen Z Schwartz  
Print Name

PART OF  
FORM B

Lynne & Stephen Schwartz

MRS L 001874 20

LIST A

Defendants: 4

1 Dr. Paul M. Lombardi

C/O Tri-county Orthopedics

197 Ridgedale Ave. #300

Cedar Knolls, NJ 07927

2 Tri-county Orthopedics

197 Ridgedale Ave.

Cedar Knolls, NJ 07927

3, Morristown Medical Center et al (A division of AHS Hospital Corp.)

100 Madison Ave.

Morristown, NJ 07960

4. ZimmerBiomet Holdings Inc. and subs.

(1800 West Center St.

Warsaw, IN 45681-0708)

} USE LOCAL ADDRESS:

399 JEFFERSON RD.

PARSIPPANY, NJ 07054

Form B

Certification of Service

I certify that on 10/1/2020 I sent a copy of the Notice of Motion, Certification, and proposed form of Order to the following parties by: (Check which mailing method you chose. If you sent it by both regular and certified mail, return receipt requested, check both)

☐ regular mail

☐ certified mail, return receipt requested ☒ SHERIFF SERVICE

List each party to the lawsuit; use the attorney's name and address if the party is represented by counsel.

Name SEE ATTACHED LIST A Name \_\_\_\_\_

Address \_\_\_\_\_ Address \_\_\_\_\_

Attorney for \_\_\_\_\_ Attorney for \_\_\_\_\_

Date 10/1/2020

Signature

Print Name

Lynne S. Schwartz / Stephen Z. Schwartz  
LYNNE S SCHWARTZ / STEPHEN Z SCHWARTZ

Form C

Name Lynne S & Stephen Z Schwartz  
NJ Attorney ID Number (if applicable) N/A  
Address 98 North Ashby Ave  
Livingston, NJ 07039  
Telephone Number 973-994-9113

Superior Court of New Jersey  
Law Division

Morris County

Docket Number MRS L 001874 20

Lynne S & Stephen Z Schwartz  
Plaintiff(s)

v.

Dr. Paul Lombardi, et als  
Defendant(s)

Civil Action

Order

This matter having been brought before the Court on Motion of (check one) ☒ plaintiff ☐ defendant for an Order (describe relief requested)

Change the received date as stamped on the forms CIS and the Form A from September 9, 2020 to September 4, 2020, the actual date the forms were filed at the Court House.

and the Court having considered the matter and for good cause appearing,

It is on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, **ORDERED** as follows:

- ☐ Opposed  
☐ Unopposed

\_\_\_\_\_, J.S.C.

5:41



Morristown  
September 4 1:12 PM

Edit

LIVE





10:42



Morristown  
September 4 1:09 PM

Edit

LIVE

